

## NOTICES OF PROPOSED RULEMAKING Initiated After January 1, 1995

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register*.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 19. BOARD OF NURSING

##### PREAMBLE

1. Sections Affected:  
R4-19-101
- Rulemaking Action  
Amend
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):  
Authorizing statute: A.R.S. § 32-1606(A)  
Implementing statutes: A.R.S. §§ 32-1601(10), 32-1606(B)(12), and 32-1921(A)(1)
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:  
Name: Audrey Rath, R.N., Nurse Practitioner Consultant  
Address: Board of Nursing  
1651 East Morton, Suite 150  
Phoenix, Arizona 85020  
Telephone: (602) 255-5092  
Fax: (602) 255-5130
4. An explanation of the rules, including the agency's reasons for initiating the rules:  
This amendment to the definitions in R4-19-101 is being promulgated to add several definitions which were inadvertently repealed during the promulgation of the recently effective and new 4 A.A.C. 19, Articles 1 through 4. It originally had been planned that simultaneously with or immediately subsequent to the rule package which promulgated those new Articles, there was to have been a rule package promulgating new Articles 5 through 7, which would have included the repealed definitions, together with several new ones. However, this second rule package has been delayed and, therefore, this rule amendment is necessary to restore several necessary definitions, including "active practice", "collaborate", "pharmacology", "prepackaged labeled drug", and "unit-of-use packaging".
5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:  
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:  
In view of the fact that this proposed rule package merely restores five definitions which have been in effect since 1984, and that there will be no changes made to these definitions or to the manner in which they are applied through other rules already in effect, there is no economic, small business, or consumer impact anticipated in this effort to merely maintain status quo.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:  
Name: Audrey Rath, R.N., Nurse Practitioner Consultant  
Address: Board of Nursing  
1651 East Morton, Suite 150  
Phoenix, Arizona 85020  
Telephone: (602) 255-5092  
Fax: (602) 255-5130
8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:  
No public proceeding is scheduled. A person may submit written comments or request that an oral proceeding be held on the proposed rules by submitting the comments or a written request for hearing no later than 5 p.m., October 10, 1995, to the contact person listed above.

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9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporations by reference and their location in the rules:  
None.
11. The full text of the rules follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 19. BOARD OF NURSING**

**ARTICLE 1. DEFINITIONS**

R4-19-101. Definitions

**ARTICLE 1. DEFINITIONS**

R4-19-101. Definitions

In this Chapter, unless the context otherwise requires:

1. "Active practice" means a minimum of 1000 hours per year of working in a clinical area with direct patient contact excluding the generic nurse practitioner program. Faculty who teach within a nurse practitioner program must spend 400 hours a year in a clinical area with direct patient contact, excluding the generic nurse practitioner program.
42. No change.
43. No change.
44. No change.
45. No change.
46. No change.
7. "Collaborate" means to establish a relationship approved by the Board of Nursing with one or more physicians for consultation or referral. The collaborating physician shall be a physician who has an active, unrestricted license and the collaborating physician's license status will be confirmed in writing by the physician's licensing board.

68. No change.

79. No change.

810. No change.

911. No change.

1012. No change.

1113. No change.

1214. No change.

1315. No change.

1416. No change.

1517. No change.

1618. No change.

19. "Pharmacology" is the science which deals with the study of drugs in all its aspects.

1720. No change.

21. "Prepackaged labeled drug" means a drug packaged in a unit-of-use package by a pharmacist or manufacturer in quantities ordinarily prescribed by the nurse practitioner and properly labeled for storage for subsequent dispensing by the registered nurse practitioner.

1822. No change.

1923. No change.

2024. No change.

2125. No change.

2226. No change.

2327. No change.

2428. No change.

2529. No change.

30. "Unit-of-use packaging" means prescription drugs pre-packaged in dispensing-size container.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY  
THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) PROGRAM**

1. Sections Affected:

R6-10-111  
Article 2  
R6-10-201  
R6-10-202  
R6-10-203  
R6-10-204  
R6-10-205  
R6-10-206  
R6-10-207  
R6-10-208  
R6-10-209  
R6-10-210  
R6-10-211

Rulemaking Action

Amend  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section

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R6-10-212	New Section
R6-10-213	New Section
R6-10-214	New Section
R6-10-215	New Section
R6-10-216	New Section
R6-10-217	New Section
R6-10-218	New Section
R6-10-219	New Section
R6-10-220	New Section
Article 3	New Article
R6-10-301	New Section
R6-10-302	New Section
R6-10-303	New Section

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1954(A)(3) and 46-134(12).

Implementing statutes: A.R.S. §§ 41-2026 and 41-2027, and Laws 1994, Ch. 302, §§ 2-19.

**3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Vista Thompson Brown, Legal Analyst  
Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, Arizona 85005  
Telephone: (602) 542-6555  
Fax: (602) 542-6000

**4. An explanation of the rules, including the agency's reasons for initiating the rules:**

As part of a comprehensive series of welfare reform measures, the Department of Economic Security obtained federal approval to lower the age range for mandatory JOBS program participation for teenage custodial parents. Participation in the JOBS program is a condition of AFDC eligibility for teenage custodial parents. The goal of this change is to assist more teenage custodial parents to achieve self-sufficiency through eventual employment. The Department is amending R6-10-111 to lower the age range for mandatory JOBS participation from "16" to "13".

Laws 1994, Ch. 302, §§ 2-19 ("the JOBSTART Bill") require the Department of Economic Security to establish a "full employment demonstration project" as one part of a comprehensive welfare reform program. The demonstration project (called "JOBSTART") will operate in Pinal County in the cities of Eloy, Coolidge, and Casa Grande. JOBSTART allows individuals receiving both AFDC and food stamps to work for public or private sector employers for minimum wage or above. The Department uses the recipients' AFDC and food stamp benefits to partially reimburse employers for wages paid to the employed recipients. The Project is designed to determine the effects of diverting the AFDC and food stamp benefits of project participants to employers who will pay Project participants wages earned through employment, and to evaluate whether such a program will lead to self-sufficiency and elimination of welfare dependency.

The JOBSTART Bill requires the Department to adopt a comprehensive set of rules governing operation of the JOBSTART program. The proposed rules address the operations of the demonstration project, including eligibility criteria for employers and participants, and explain the duration, participant and employer requirements, grant diversion, the consequences of noncompliance, supplemental payments, employer reimbursements, and sanctions.

Federal law (45 CFR 251) and Laws 1994, Ch. 302, §§ 2-19 ("the JOBSTART Bill") require the Department to establish and maintain a grievance procedure permitting regular employees of an employer, with whom JOBS participants are placed, to grieve displacement by a subsidized, or unpaid, JOBS employee. The proposed rules establish an informal grievance procedure for displaced employees. The rules also allow employers to use the same process to grieve wrongdoings under specified circumstances. Last, the rules provide higher appeals to federal authorities, as required by 45 CFR 251.4.

**5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**6. The preliminary summary of the economic, small business, and consumer impact:**

Teenage Custodial Parents

The proposed rules regarding provision of JOBS services to teenage custodial parents receiving AFDC will allow these parents to acquire education and skills to avoid long-term welfare dependency. Taxpayers will benefit from an expected decrease in welfare benefits. DES will be directly impacted because of the increase in the number of persons served. However, because the number of custodial teen parents affected is minimal, neither the Department nor the community will realize any significant costs.

JOBSTART

The proposed rules for JOBSTART will impact recipients of both AFDC and food stamps who live in the project area. These recipients will be placed in subsidized employment and will benefit from the acquisition of skills, training, and expanded employment opportunities. The employers in the targeted communities that participate in JOBSTART will benefit by having employees at only the cost of training expenses. Taxpayers will ultimately benefit from the Project due to the expected decrease in welfare benefits. There will be little increase in costs to taxpayers because the monies being diverted to a wage pool and used to reimburse employers would otherwise be spent on welfare benefits for the participating recipients.

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Within the Department of Economic Security, both the Jobs Opportunities Basic Skills (JOBS) Administration and the Family Assistance Administration (FAA) are incurring costs to implement and enforce the JOBSTART Program as reflected in these proposed rules.

Three communities within Pinal County have been targeted for implementation of the proposed Project. Two of these communities are currently experiencing a labor shortage. No costs will be incurred by these entities. These communities may ultimately benefit from this Project because of the availability of new employees and the subsidies which will offset their wages and other employer costs to operate a business.

**Grievance Procedures**

Currently, an informal grievance procedure is available for regular employees of an employer to file a grievance with the Department regarding displacement by a JOBS participant. This procedure has never been formally described in rule. The proposed rules provide the grievance procedures for both employees and employers to formally grieve wrongdoings under specified circumstances for both the regular JOBS program and for the JOBSTART demonstration project. Because the procedure already exists, and the Department is simply codifying the procedure in rule, no new costs will be incurred. There will be intangible benefits to grievants because the rules will provide clarity about the process.

**7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Vista Thompson Brown, Legal Analyst  
Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, Arizona 85005  
Telephone: (602) 542-6555  
Fax: (602) 542-6000

**8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments on the proposed rules or economic impact statement may be submitted to the person listed above no later than 5 p.m., October 6, 1995.

Oral proceedings have been scheduled as follows:

**Phoenix/District I**

Date: October 5, 1995  
Time: 1:30 p.m.  
Location: DES Conference Room  
815 North 18th Street  
Phoenix, Arizona

Coordinating Program Manager: Vince Ornelas, (602) 255-3722

**Tucson/District II**

Date: October 4, 1995  
Time: 1:30 p.m.  
Location: DES Conference Room  
400 West Congress #420  
Tucson, Arizona

Coordinating Program Manager: Henry Granillo, (520) 628-6810

**Flagstaff/District III**

Date: October 5, 1995  
Time: 1:30 p.m.  
Location: DES Conference Room  
220 North LeRoux  
Flagstaff, Arizona

Coordinating Program Manager: Pam Estrella, (520) 779-2731, ext. 238

**Yuma/District IV**

Date: October 5, 1995  
Time: 1:30 p.m.  
Location: DES Conference Room  
350 West 16th Street  
Yuma, Arizona

Coordinating Program Manager: Tim Acuff, (520) 782-4342

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Casa Grande/District V

Date: October 5, 1995  
Time: 1:30 p.m.  
Location: DES Conference Room  
2510 North Trekeil  
Casa Grande, Arizona

Coordinating Program Manager: Clay Ross, (520) 836-2351

Bisbee/District VI

Date: October 5, 1995  
Time: 1:30 p.m.  
Location: DES Conference Room  
209 Bisbee Road  
Bisbee, Arizona

Coordinating Program Manager: Marty White (520) 432-5703

The Department of Economic Security (DES) follows and supports Title II of the Americans with Disabilities Act. DES does not discriminate against persons who wish to make oral or written comments on the proposed rulemaking or otherwise participate in the public comment process. Persons with disabilities who need accommodation (including auxiliary aids or services) to participate in the above-scheduled hearings may contact the coordinating program managers identified above, at least 72 hours before the scheduled hearing, to request accommodation.

To request accommodation to participate in the public comment period or obtain this notice in large print, Braille, or on audiotape, contact Vista Thompson Brown at (602) 542-6555, P.O. Box 6123, Site Code 837A, Phoenix, Arizona 85005; TDD 1-800-367-8939.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporations by reference and their location in the rules:  
None.
11. The full text of the rules follows:

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY  
THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) PROGRAM**

**ARTICLE 1. JOBS: GENERAL PROVISIONS**

R6-10-111. The Teen Parent Model

**ARTICLE 2. JOBSTART**

R6-10-201. Definitions  
R6-10-202. Project Applicability  
R6-10-203. Selection Criteria for Participation  
R6-10-204. Classification as an Experimental or Control  
R6-10-205. Project Orientation for Experimentals  
R6-10-206. Assessment for Project Employment Referrals and Employer Interviews  
R6-10-207. Project Participation Requirements  
R6-10-208. Monitoring  
R6-10-209. Duration of Participation: Extension  
R6-10-210. Failure of Experimentals to Comply, Good Cause, and Verification  
R6-10-211. Supplemental Payments and Good Cause  
R6-10-212. Fair Hearings: Grievances  
R6-10-213. Support Services  
R6-10-214. Employer Participation  
R6-10-215. Employer Agreement: Reports  
R6-10-216. Employer Certification  
R6-10-217. Limits on Employer Participation: Workforce Waiver  
R6-10-218. Employer Reimbursements  
R6-10-219. Termination of Employer Participation  
R6-10-220. Employer Sanctions and Grievances

**ARTICLE 3. GRIEVANCE PROCEDURES**

R6-10-301. Definitions  
R6-10-302. Grievance - Regular Employees: Employer  
R6-10-303. Grievance Process

**ARTICLE 1. JOBS: GENERAL PROVISIONS**

**R6-10-111. The Teen Parent Model**

- A. To qualify for the teen parent model, a person shall:
1. Be age 16 1/2 through age 19; and
  2. Be pregnant or the custodial parent of a child. For the purpose of this Section a "custodial parent" means a parent who lives with his or her child.
- B. No change.

**ARTICLE 2. JOBSTART**

**R6-10-201. Definitions**

In addition to the definitions contained in R6-10-101 and in A.A.C. R6-12-1302, the following definitions apply in this Article unless the context otherwise requires.

1. "Control" means an individual in the Project who will receive regular JOBS Program supportive services and case management.
2. "Designated geographic area" means the following towns and zip code areas: Coolidge, 85228; Eloy, 85231; and Casa Grande, 85222, 85223, and 85230.
3. "Employer" means a Project employer who hires an experimental during the course of the Project's duration.

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4. "Experimental" means an individual in the Project who will be eligible for subsidized employment during the Project.
5. "Full-time employment" means employment of at least 30 hours per week.
6. "Project" means the three-year JOBSTART demonstration project implemented through the JOBS Program in the designated geographic area and includes experimentals and controls. The Project will determine the effects of diverting AFDC and food stamp benefits of experimentals to employers who will pay Project participants' wages earned through employment.
7. "Project employment" means the subsidized employment for which experimentals are hired.
8. "Regular employee" means an unsubsidized individual currently employed by a Project employer.

**R6-10-202. Project Applicability**

- A. The Department shall implement the Project on November 1, 1995. JOBS shall consider persons who reside in the designated geographic area and who are referred to JOBS, as prescribed in R6-10-105, on or for the 27 months following the implementation date, for inclusion in the Project.
- B. Persons selected for participation as prescribed in R6-10-203 and R6-10-204 are subject to these rules contained in Article 2.

**R6-10-203. Selection Criteria for Participation**

To be eligible for the Project, a participant shall:

1. Be a mandatory JOBS participant;
2. Reside in the designated geographic area;
3. Be receiving both AFDC and food stamps;
4. Be age 19 or older;
5. Be assigned to job search activities for the first time in this period in the Program;
6. Not be enrolled in a state-accredited, post-secondary institution full-time, as defined by the institution;
7. Not be enrolled in a state-accredited, post-secondary institution half-time, as defined by the institution, and employed at least 20 hours per week;
8. Be a high school (HS) graduate or have completed requirements for HS diploma or general equivalency diploma (GED) except that if it is likely the participant, other than a teenage custodial parent, can be matched with an employer with whom a HS diploma or GED program is offered at the work site, the participant shall be deemed to meet this requirement.

**R6-10-204. Classification as an Experimental or Control**

- A. After a participant qualifies for the Project and after JOBS determines that a participant is eligible for the Project as prescribed in R6-10-203, JOBS shall randomly classify the participant as an experimental or a control.
- B. No person selected for the Project may choose or volunteer to be an experimental or a control.

**R6-10-205. Project Orientation for Experimentals**

The Department shall provide Project orientation to experimentals. The orientation shall describe the Project, including:

1. The benefits of the Project;
2. The diversion of the experimental's AFDC and food stamp benefits for wage subsidy;
3. The consequences of failure to comply with Project requirements;
4. The availability of and the requirements to qualify for and obtain supplemental payments;
5. The fair hearing process for challenging adverse action or failure to receive a supplemental payment;

6. Potential entitlement to additional funds as an offset to the cost incurred as a result of the requirement that an experimental count the food stamp cash value as net income for income tax purposes;
7. The pass-through to the household of current month child support collected, and the disregard of this income when AFDC and food stamp eligibility benefits are calculated, as prescribed in A.A.C. R6-12-504 and R6-12-1305(B);
8. The exclusion of a portion of wages when AFDC and food stamp benefits are calculated at redetermination, as prescribed in A.A.C. R6-12-1305(A);
9. The potential eligibility for advance Earned Income Tax Credits (EITC).

**R6-10-206. Assessment for Project Employment Referrals and Employer Interviewers**

- A. The Department shall assess experimentals for Project employment as prescribed in R6-10-106(B).
- B. The Department shall make all job referrals as prescribed in subsection (C).
- C. The Department shall make job referrals by matching an experimental's skills, experience, and employment goal with a Project employer's requirements. The Department shall also consider the following criteria in making Project employment referrals:
  1. Whether a referral will give an experimental additional employment opportunities because of skills learned through Project employment;
  2. Whether a referral is likely to result in a permanent, unsubsidized, or full-time employment for the experimental;
  3. The length and quality of training the Project employer will provide to the experimental;
  4. Wages, benefits, and opportunities for advancement;
  5. The employer's turnover rate; and
  6. Other comparable or similar factors.
- D. The Department shall schedule the experimental for an interview with the prospective employer and notify the experimental of the interview date, place, and time.
- E. The employer shall decide whether to hire an experimental.

**R6-10-207. Project Participation Requirements**

- A. An experimental shall abide by an employer's regular requirements regarding:
  1. Submitting an application for employment.
  2. Appearing for interviews.
  3. Providing necessary information such as citizenship verification.
  4. Hours of employment.
  5. Attendance.
  6. Job performance.
  7. Conduct, and
  8. Other similar conditions of the employment.
- B. An experimental shall comply with the following Project requirements:
  1. Sign the Departmental form agreeing to abide by Project requirements;
  2. Appear for pre-referral and assessment interviews with Department staff or its designee;
  3. File a report of employment days, hours, and pay received, as prescribed in R6-10-208;
  4. Accept and maintain subsidized employment;
  5. Establish good cause for failing to participate, as prescribed in R6-10-210;
  6. Report changes to JOBS which affect Project participation such as:

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- a. The need for additional supportive services as prescribed in R6-10-113 and R6-10-114.
- b. Accepting or refusing an offer of employment.
- c. Absence from or termination of employment.
- d. Job position or function modifications.
- e. Other similar or comparable factors, and
- 7. Ensure that their children between the ages of 6 and 16 receive school instruction as prescribed in A.R.S. § 15-802.

**R6-10-208. Monitoring**

- A. At the end of each work week, an experimental shall sign and send his or her JOBS worker the Department's form on which the experimental shall state his or her name, days and hours worked, and pay received. The experimental shall have his or her supervisor, or that person's designee, sign the form.
- B. The Department shall use information on the form to determine:
  - 1. Whether the experimental is entitled to a supplemental payment as prescribed in R6-10-211.
  - 2. The amount of reimbursement for Project employers as prescribed in R6-10-218, and
  - 3. The experimental's compliance with the Project.
- C. If the experimental fails to send in the completed form, the Department shall sanction the experimental and withhold supplements. If the employer fails to sign the form, reimbursement payments to the employer will be delayed.
- D. If the experimental is engaging in job search activities as prescribed in R6-10-209(B) the experimental shall provide evidence of job search activities through attachment of the Department's form on which the experimental states:
  - 1. His or her name;
  - 2. Employers contacted by name, address, and telephone number;
  - 3. Description of contact; and
  - 4. Date of contact.

**R6-10-209. Duration of Participation; Extension**

- A. Experimentals may participate in Project employment for up to nine months with one extension of three months. An experimental's employer must request the extension in writing and shall provide the following information on which the Department shall base its decision to extend:
  - 1. Name of the experimental for whom the extension is requested.
  - 2. Position for which an extension is requested.
  - 3. What additional experience or training is needed to achieve competency.
  - 4. The employer's expectation for hiring the individual following the extension.
  - 5. The length of time for the extension, and
  - 6. Other similar or comparable factors indicating an extension is necessary.
- B. If the Department approves the extension for a fixed period of time, not to exceed three months, the employer shall allow the experimental to engage in up to eight hours per week of job search activities during the extension period. The employer shall treat the search time as hours worked for the purpose of paying wages.
- C. Total Project employment time for an experimental shall not exceed 12 months.

**R6-10-210. Failure of Experimentals to Comply, Good Cause, and Verification**

- A. Experimentals shall comply with Program and Project requirements as prescribed in 6 A.A.C. 10.

- B. The following conduct constitutes a failure to comply with Project requirements and the Department shall sanction the experimental as prescribed in R16-10-119 and R6-10-120:
  - 1. Violation of any applicable rule in 6 A.A.C. 10, Article 2, except as otherwise provided in subsection (C); and
  - 2. Failure to sign the Department's form indicating a willingness to abide by the Project requirements.
- C. The following constitutes failure to comply with the Project employment requirements and the Department shall sanction experimentals as prescribed in A.A.C. R6-12-1307(A):
  - 1. Failure to appear for assessment or pre-referral interviews pursuant to R6-10-206;
  - 2. Failure to submit an employment application as required by the Project employer, without good cause as prescribed in subsection (D);
  - 3. Failure to appear for an employment interview without good cause as prescribed in subsection (D);
  - 4. Failure to accept subsidized employment without good cause as prescribed in subsection (D);
  - 5. Failure to maintain employment on at least two occasions unless:
    - a. The separation is initiated by the Project employer and the circumstances in subsection (C)(6) do not apply;
    - b. The separation is for reasons outside the control of the experimental, no reasonable alternative is available, and the experimental's attempts to adjust the work requirements or personal circumstances are unsuccessful; the reasons include those prescribed in subsection (E); or
    - c. The separation is due to an action or omission of the Project employer which rendered the work unsuitable, such as failing to pay the experimental on time, or as prescribed in R6-10-214(A)(1) through (7); and
  - 6. Willful misconduct resulting in subsidized employment termination; willful misconduct shall include, but is not limited to:
    - a. Disruptive behavior by the experimental of a severe enough nature to disrupt the performance of other employees or to impede the employer's business;
    - b. Unexcused tardiness and absences, as defined by the employer;
    - c. Refusal or failure to abide by the employer's job requirements;
    - d. Reducing employment hours; or
    - e. Substance abuse.
- D. The following circumstances constitute good cause for a failure to apply for, interview for, or to accept subsidized employment.
  - 1. The participant refused a job offer due either to a strike, lockout, or similar labor dispute; or
  - 2. The job requires the participant to join a company union or to resign membership or refrain from joining a bona fide labor organization.
- E. The circumstances listed in R6-10-119(B)(2), (4) through (9), and (13) shall be good cause for failure to maintain employment. An experimental shall provide his or her JOBS worker with documentation to substantiate a claim of good cause for failure to maintain employment. Verification shall include:
  - 1. For claims of illness or incapacity, a statement from a licensed physician;

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2. For a claim that child care is unavailable, a statement from the DES Child Care Administration;
3. For a claim of an inoperable vehicle, an auto mechanic's statement that the only vehicle available is inoperable;
4. For claims of no public transportation, a bus schedule;
5. For claims regarding a court appointment, a copy of a court notice requiring appearance; and
6. Other similar documentation demonstrating the experimental was unable to work for reasons beyond the experimental's control.

**R6-10-211. Supplemental Payments and Good Cause**

A. Each month, the Department shall make supplemental payments to experimentals as prescribed in A.A.C. R6-12-1306.

B. When an experimental's combined AFDC and food stamp monthly benefit amount exceeds the amount of the experimental's adjusted gross wages and supplemental payments for the same month, and the loss is due to an unpaid hour of absence as reported by the Project employer, the Department shall presume that each unpaid hour was not for good cause and withhold a supplemental payment to make up the difference. The Department shall send the experimental written notice of adverse action no later than ten days following the end of the benefit month. At a minimum, the notice shall include the following information:

1. The information required for an adequate notice as described in A.A.C. R6-12-101(1);
2. The experimental's right to provide documentation of good cause for such absence as prescribed in R6-10-210(E), and the experimental's right to receive a supplemental payment if the Department finds that the experimental has established good cause; and
3. The experimental's responsibility to provide documentation of good cause to JOBS within ten calendar days from the date of the notice to avoid withholding of the supplemental payment pending the outcome of a fair hearing.

C. The Department shall provide a supplemental payment reconciling the difference no later than ten days after the end of the month in which the experimental establishes good cause if:

1. The experimental provides verification of good cause as described in R6-10-210(E); and
2. The verification is received by JOBS within ten calendar days of the date the adverse action notice was mailed.

D. The Department shall not provide the experimental a supplemental payment reconciling the difference if the experimental does not request a hearing; or requests a hearing but waives the continuation of benefits pending the outcome of the hearing; and either:

1. The experimental does not provide any verification of good cause; or
2. The experimental does not timely provide verification of good cause.

**R6-10-212. Fair Hearings; Grievances**

The Department shall conduct hearings on appeals of adverse action as prescribed in Article 3. Grievances are also governed by Article 3.

**R6-10-213. Support Services**

The Department shall provide support services to experimentals as prescribed in R6-10-113 and R6-10-114.

**R6-10-214. Employer Participation**

A. An employer who wants to participate in the Project shall notify the Department's JOBSTART office in the community where the employer is located. To qualify for participation, an employer shall satisfy the following criteria:

1. Agree to place an experimental in a permanent, full-time position, not a seasonal or temporary position;
2. Reasonably expect to offer the experimental an opportunity for full-time, unsubsidized employment;
3. Normally require the experimental to work no more than an average of 40 hours per week;
4. Not place the experimental in a position that will displace a regular employee;
5. Pay wages that are substantially like the wages paid for similar jobs, with like adjustments for experience and skills, but never less than the federal minimum wage;
6. Maintain acceptable industry safety, health, and working conditions;
7. Provide training at the worksite which is necessary to meet the competency standards for the position;
8. Provide health care coverage, sick leave, holiday and vacation leave, and other comparable benefits in conformance with the employer's rules for new employees;
9. Provide Workers' Compensation coverage;
10. Provide a mentor to the Project participant;
11. Help the experimental obtain any advance Earned Income Tax Credit for which the experimental may be eligible;
12. Not have been debarred pursuant to R6-10-219;
13. Sign the agreement as prescribed in R6-10-215(A);
14. Sign the Department's certification form as prescribed in R6-10-216; and
15. Not have a workforce composed of more than 10% experimentals unless the Department grants a waiver pursuant to R6-10-217.

B. If the employer satisfies the criteria listed in subsection (A), the employer may place a job order with the Department. The order shall include the following information on the available position:

1. Days and hours of work,
2. Wages,
3. Description of responsibilities,
4. Benefits,
5. Opportunity for advancement, and
6. Other pertinent job-related information.

C. No employer is required to participate in the Project.

**R6-10-215. Employer Agreement; Reports**

A. An employer who wants to hire an experimental shall sign an agreement with the Department.

1. The employer shall affirm that the employer satisfies all of the selection criteria listed in R6-10-214(A) and will continue to meet all the selection criteria while participating in the Project;
2. If the employer violates a Project requirement, the employer shall repay any reimbursements the employer receives after the date of the violation.
3. The employer shall avoid conflicts of interest and the appearance of impropriety or favoritism in hiring practices, such as preferential hiring of relatives, friends, and business associates.
4. The employer shall prepare and provide to the Department the following reports:
  - a. No later than the second workday following the end of each calendar month, the employer shall

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report the following information for each experimental:

- i. Gross wages;
  - ii. Federal and state income taxes, and FICA contributions deducted from gross wages;
  - iii. The employer's costs for the Social Security portion of FICA; and for Unemployment Insurance and Workers' Compensation premiums;
  - iv. Number of paid hours of work (including paid hours of leave);
  - v. Hours for which an experimental was not paid because the experimental did not report for work; and
  - vi. Hours for which the experimental was not paid because the employer reduced available work hours.
- b. No later than the tenth workday of each calendar month following a month of work, the employer shall complete and provide to the Department a one-page report on each experimental's performance. After the first four reports, the employer shall submit the report every six months. The report shall include the following information:
- i. Skills (competencies) gained as a result of employment;
  - ii. Ability to correctly and timely complete assignments;
  - iii. General work habits such as punctuality, absenteeism, and neatness of work area;
  - iv. Development of effective and efficient working relationships with people, including supervisors, peers, and subordinates.
5. An employer shall allow Department staff to schedule and make visits to the worksite, so staff can observe an experimental's work activities and interview the experimental.
6. An employer shall verify information by signing the experimental's weekly participation report described in R6-10-208(A).
- C. The employer shall sign and date the agreement. A Department representative and the experimental shall also sign and date the agreement.

**R6-10-216. Employer Certification**

An employer who wants to participate in the Project shall also provide the Department with a signed, dated, certification form. On the form, the employer shall certify that the information listed in this Section is true as to the employer, and its principal officers and directors.

1. The employer is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency, the state of Arizona, or any other state.
2. The employer has not, within the preceding three years, been convicted of or had a civil judgment rendered against the employer for:
  - a. Fraud,
  - b. Antitrust,
  - c. Embezzlement,
  - d. Theft,
  - e. Forgery,
  - f. Bribery,
  - g. Falsification or destruction of records,

- h. Making false statements, or
- i. Receiving stolen property.

**R6-10-217. Limits on Employer Participation: Workforce Waiver**

- A. An employer may hire one or more experimental but shall not fill more than 10% of the employer's total workforce at a worksite with experimentals, unless the Department approves a workforce waiver for the employer.
- B. An employer interested in obtaining a workforce waiver shall request the workforce waiver in writing on a Department form. The employer shall provide the following information concerning the worksite for which the employer seeks a waiver:
1. Employee data, including:
    - a. The number of employees employed at a worksite,
    - b. The number and type of positions available to experimentals, and
    - c. The wages and hours of the available positions;
  2. The percent of the employer's workforce that the employer seeks to fill with experimentals and the total experimental workforce percentage if the requested waiver were approved;
  3. A statement that existing employees will not be adversely affected by the waiver, as described in R6-10-302, by the increased numbers of experimentals that may be hired; and
  4. A statement explaining why the potential hires will benefit.
- C. The Department shall consider the information provided by the employer and the following factors in determining whether to grant the requested waiver:
1. Lack of suitable position with other employers;
  2. Quality of the employer's training and mentoring program;
  3. Transferability of skills to other employment opportunities;
  4. Local labor market factors affecting the employability of persons with the skills to be acquired;
  5. Employer's history regarding permanent hiring of experimentals in unsubsidized employment; and
  6. Wages, advancements, and other comparable factors.
- D. The Department shall send the employer a written notice advising the employer as to whether the Department will grant a waiver, the waiver percentage allowed, and the time period for the waiver, which shall not exceed one year. The Department is not obligated to renew a waiver and may cancel a waiver on 60-days' notice to the employer.

**R6-10-218. Employer Reimbursements**

- A. The Department shall compute an employer's reimbursement amount based on the information the employer provides pursuant to R6-10-215(A)(4).
- B. For each experimental, the employer's reimbursement for wages and employer's expenses shall not exceed:
1. A wage reimbursement that is the lesser of:
    - a. The gross wages paid to the experimental in the month;
    - b. Eight hours per day, up to 40 hours per week, times the federal minimum wage; or
    - c. The total AFDC plus food stamp benefits for the benefit month in which the wages were paid; plus
  2. A reimbursement of the employer's share of the Social Security portion of F.I.C.A., Unemployment Insurance, and Workers' Compensation premiums that is the lesser of:

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- a. The employer's actual expense, or
- b. The employer's expense based on an average of a 40-hour work week times the federal minimum wage.

- C. The Department shall issue the reimbursement no later than the 25th of the same calendar month in which the employer's report is timely received. Late receipt of the form may delay reimbursements.
- D. The Department shall not issue reimbursements if the Department receives the report more than 30 calendar days after the end of the month for which a reimbursement is requested.

**R6-10-219. Termination of Employer Participation**

- A. If the Department knows or learns of information indicating that the employer's certification, pursuant to R6-10-216, is or has become wrong or false, the Department shall terminate the employer's participation in the Project and shall not allow the employer to participate in the future, pursuant to the procedures prescribed in R6-10-220.
- B. The Department shall terminate the employer's Project participation if the employer violates Project requirements and not allow further participation in the Project pursuant to the procedures prescribed in R6-10-220.
- C. The Department shall also terminate the employer's participation in the Project if the employer has shown a pattern of either terminating experimentals before the completion of training or of not offering unsubsidized employment to experimentals who have successfully completed training with the employer.
  - 1. The Department shall consider each occurrence of either circumstance in establishing the pattern.
  - 2. The Department shall not allow the employer to participate in the Project if the total occurrences exceed the greater of the following figures, unless the employer can establish good cause:
    - a. Two occurrences, or
    - b. 20% of the total number of experimentals placed with the employer.
  - 3. If the employer claims good cause, the employer shall provide proof that the experimental failed to meet the employer's requirements pursuant to R6-10-207(A), and that the employer attempted to establish a reasonable alternative with the experimental but was unsuccessful, due to circumstances outside the employer's control.

**R6-10-220. Employer Sanctions and Grievances**

- A. If the Department determines that an employer has violated Project requirements, as prescribed in R6-10-219, the Department shall take all of the following adverse actions against the employer:
  - 1. Withhold any subsidized payments due the employer, following the date of the violation;
  - 2. Seek repayment of any amounts overpaid to the employer; and
  - 3. Not allow the employer to participate any longer in the Project as prescribed in R6-10-219.
- B. If the Department plans to take adverse action against an employer, the Department shall send the employer a written notice of adverse action. At a minimum, the notice shall include:
  - 1. The name and address of the employer.
  - 2. The action taken and the reason for the adverse action.
  - 3. The authority for the action, and
  - 4. The employer's appeal rights.

- C. An employer who disagrees with the amount of an unsubsidized payment or who is subject to adverse action as prescribed in subsection (A) may file a grievance with the Department as prescribed in Article 3.

- D. The Department shall conduct grievance procedures pursuant to R6-10-303.

**ARTICLE 3. GRIEVANCE PROCEDURES**

**R6-10-301. Definitions**

The definitions in R6-10-101 and R6-10-201 apply in this Article unless the context otherwise requires.

**R6-10-302. Grievances - Regular Employees; Employer**

Regular employees of employers, with whom JOBS participants are placed in unpaid or subsidized jobs, may file a grievance regarding displacement as prescribed in this Article. As used in this Section, displacement shall include a participant to a position which:

- 1. Results in the termination or reassignment of a regular employee;
- 2. Results in the reduction of non-overtime work, wages, or benefits of a regular employee;
- 3. Impairs an existing contract for service or a collective bargaining agreement;
- 4. Fills the position of a regular employee on layoff status;
- 5. Creates a new position for a participant when the new position performs substantially the same job functions as the position held by a regular employee on layoff, or who is subsequently terminated;
- 6. Infringes upon the promotional opportunities of a regular employee; or
- 7. Fills any established, unfilled position.

**R6-10-303. Grievance Process**

- A. Upon request, JOBS shall provide information to regular employees and Project employers regarding their right to file a grievance and the procedures for doing so.
- B. The aggrieved party may seek to informally resolve a grievance at the regional level with the JOBS Regional Program manager or that person's designee, or may request a fair hearing.
- C. To pursue informal resolution, an aggrieved party shall file a Departmental grievance form with the JOBS Regional Program Manager or designee. The form shall contain the following information:
  - 1. Aggrieved party's name, address, and phone number;
  - 2. Date of grievance;
  - 3. Contact person, if other than the aggrieved party;
  - 4. Regional Program Manager or designee, address, and phone number;
  - 5. A description of the action which is the subject of the grievance and the date of the action; and
  - 6. The proposed resolution
- D. If the aggrieved party requests an informal resolution, the Department shall hold an informal resolution meeting with the aggrieved party, within 15 working days from the date the Department receives the grievance.
- E. If a grievance is not resolved at the informal meeting, the aggrieved party may request a fair hearing with the Department of Economic Security, Office of Appeals, within 20 days from the date of the informal meeting, by sending a request for a fair hearing to the JOBS local office.
- F. If the aggrieved party does not choose to seek an informal resolution as prescribed in subsections (C) and (D) above, the aggrieved party may request a fair hearing. An employer who requests a fair hearing shall file a request within 20 calendar days of the date of the adverse action notice as described in

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- R6-10-220. Upon request, JOBS shall assist the aggrieved party in preparing the hearing request.
1. Assistance shall include an explanation of the aggrieved party's right to a fair hearing, the fair hearing procedures, and the process.
  2. Upon receipt of a request for a fair hearing, the Office of Appeals will conduct the hearings pursuant to A.A.C. R6-12-1005 through R6-12-1007 and R6-12-1009, except that references to FAA shall be references to JOBS, through R6-12-1013(A).
- G. The date the hearing is deemed filed shall be in accordance with R6-12-1002.
- H. The JOBS local office shall prepare and forward the request for a hearing to the Office of Appeals. The JOBS office shall include:
1. The information submitted pursuant to subsection (C).
  2. The decision reached at the informal resolution meeting, and
  3. Any decision notice or other documents relating to the hearing request.
- I. Regular employees grieving displacement issues pursuant to R6-10-302 may appeal the decisions of a Department hearing officer as prescribed in this subsection.
1. The aggrieved party shall send the appeal to:  
Office of Administration Law Judges  
U.S. Department of Labor  
Vanguard Building, Room 600  
1111 20th Street, N.W.  
Washington, DC 20036
2. The aggrieved party shall send a copy of the appeal to the following:
    - a. Assistant Secretary for Employment and Training  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210; and
    - b. Assistant Secretary for Family Support  
Department of Health and Human Services  
370 L'Enfant Promenade, SW, 6th Floor  
Washington, DC 20447
- J. The aggrieved party shall include the following information in the appeal:
1. The full name, address, and telephone number of the aggrieved party;
  2. Citations to provisions or regulations the aggrieved party believes have been violated;
  3. A copy of the original complaint filed with the state; and
  4. A copy of the state's finding and decision.
- K. The decision of the Office of the Administrative Law Judges is the final decision of the Department of Labor.
- L. Employers grieving issues pursuant to R6-10-220 may appeal the findings of the Department's hearing officer with the Department's Appeal Board pursuant to A.A.C. R6-12-1014(A).
- M. The Appeals Board proceedings shall be pursuant to A.A.C. R6-12-1015, except that the decision of the Board is final.